

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

UNITED STATES OF AMERICA,

*Plaintiff,*

v.

GREG ABBOTT, in his capacity as  
GOVERNOR OF THE STATE OF TEXAS,  
and THE STATE OF TEXAS,

*Defendants.*

Case No. 1:23-cv-00853-DAE

**PLAINTIFF UNITED STATES' MOTION REGARDING  
PROPOSED SCHEDULE FOR BRIEFING FURTHER  
DISCOVERY AND *DAUBERT* MOTIONS**

Pursuant to Judge Howell's July 2, 2024 Order (ECF 145), Plaintiff the United States of America moves the Court for entry of the briefing schedule set forth below. The United States understands that Texas is opposed to the relief requested herein. *See* Exhibit 1. In support of its motion, Plaintiff states as follows:

Following a status conference on July 2, 2024, Judge Howell issued an order setting a hearing for Thursday, July 25, 2024, on "any pending *or contemplated* discovery or *Daubert* motions" in this case. ECF 145 at 2 (emphasis added). The order also required that "the briefing for these motions must be complete (i.e., motion, response, and reply all filed) by Friday, July 19, 2024." *Id.* These dates were set in order to "ensure that the undersigned [Judge Howell] has sufficient time to rule on the currently pending and forthcoming motions." *Id.*

Counsel for the United States and Texas conferred by email on numerous occasions between July 5, 2024, and July 15, 2024 regarding the matters in the July 2 Order. The parties

have attempted to negotiate an agreed schedule for briefing any additional motions to be heard by Judge Howell at the July 25 hearing. However, the parties have reached an impasse in those discussions, with a primary point of disagreement being whether Texas may file additional discovery and/or *Daubert* motions *beyond* those that will be heard by Judge Howell at the July 25 hearing. *See* Ex. 1. Given the limited time remaining before the July 25 hearing, the United States therefore moves for entry of a schedule to govern briefing of any additional discovery or *Daubert* motions to be filed in this case.

The United States seeks entry of the following schedule:

1) Except as noted in paragraphs 3 and 4 below, each party may file no more than two additional *Daubert* and/or discovery motions. Such motion or motions may be filed in omnibus form raising multiple *Daubert* and/or discovery issues, provided each motion complies with the 10-page limit set forth in Local Rule CV-7(C)(2).

2) Except as noted in paragraphs 3 and 4 below, any additional *Daubert* and/or discovery motions must be filed no later than July 16, 2024. Oppositions must be filed no later than July 19, 2024.

3) In the event that Texas determines it will file a motion to compel further responses to its June 17, 2024 Supplemental Requests for Production (to which the United States' response is not due until July 17), Texas will give notice of such motion (a) no later than 5 P.M. Central Time on July 18, 2024, and (b) at least two full business days before filing such motion, in order to allow adequate time for the parties to meet and confer on document production issues. Any such motion shall be filed no later than 5 P.M. Central Time on July 22, 2024, with the opposition due by 5 P.M. Central Time on July 24, 2024.

4) In the event that Texas determines it will file a discovery or *Daubert* motion relating to the

United States' rebuttal expert Michael Chapman (whose report was disclosed on July 12), Texas may file such motion by 5 P.M. Central Time on July 26, 2024.

5) The parties will not file written replies in support of any motions to be heard at the July 25, 2024 hearing that have not already been filed.

6) The deadline for the Joint Advisory addressing the parties' final meet-and-confer required by the Court's July 2, 2024 Order, ECF 145 at 2, is extended until 12 P.M. Central Time on July 24, 2024.

7) The July 25, 2024 hearing before Judge Howell will be conducted remotely.

\* \* \*

The United States respectfully requests that the Court adopt the proposed briefing schedule described above.

Respectfully submitted,

Dated: July 15, 2024

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### CERTIFICATE OF SERVICE

I certify that on July 15, 2024, a copy of this filing was served on counsel of record through the Court's electronic filing system.

/s/ Andrew D. Knudsen  
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